

<p>Title: Implementing the Mobile Homes Act 1983 on local authority Gypsy and Traveller sites</p> <p>Lead department or agency: Communities and Local Government</p> <p>Other departments or agencies:</p>	<p>IA No:</p> <p>Date: 11/08/2010</p> <p>Stage: Enactment</p> <p>Source of intervention: Domestic</p> <p>Type of measure: Secondary legislation</p> <p>Contact for enquiries: Philip Davies ext 42081</p>
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Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The European Court of Human Rights ruled in 2004 in the case of *Connors v United Kingdom* that the lack of procedural safeguards to the eviction of Gypsies and Travellers from local authority sites breached article 8 of the European Convention on Human Rights (the right to respect for a person's private, family and home life).

What are the policy objectives and the intended effects?

To provide the same procedural safeguards, and other rights and responsibilities, to Gypsies and Travellers on local authority caravan sites as those on other types of residential caravan sites. To ensure pitches on local authority and county council sites are used as provision for those most in need by disapplying the right to assign in agreements to live on local authority sites and in new agreements on county council sites. To ensure current residents on local authority sites are aware of their rights and responsibilities under the Mobile Homes Act 1983 by requiring that a written statement of the agreement is issued to current residents on these sites within 28 days of section 318 coming into force.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

A. Do nothing. This was considered in the impact assessment for the Housing and Regeneration Bill and consultation.

B. Amend the Mobile Homes Act 1983 to include local authority sites. Require a written statement to be issued to existing residents on local authority sites.

C. As Option B, but not apply the right of assignment to local authority sites and new residents on county council sites. A new agreement will be needed for county council sites. **Following consultation, this is our final proposal.**

D. As Option B, but impose additional requirements on assignment on local authority sites and for new residents on county council sites. A new agreement will be needed for county council sites.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed 04/2013
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Not applicable

UUMinisterial Sign-off For enactment stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister: Grant Shapps..... Date: 26PPth January 2011

Summary: Analysis and Evidence

Policy Option C

Description:

Include local authority sites in Mobile Homes Act but not apply the right of assignment to local authority sites and new agreements on county council sites. Require a written statement to be issued to existing residents on local authority sites.

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: - £0.387

COSTS (£m)	Total Transition (Constant Price) Year	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate	£140,712	£32,433	£387,000

Description and scale of key monetised costs by 'main affected groups'

Local authorities/county councils: one-off transitional arrangements (6 days local authority officer / 2 days county council officer time per site); local authorities: ongoing - consultation on sites improvements (5.5 days local authority officer time 50% of sites every 3 years); dealing with matters arising under the 1983 Act (10 days of local authority officer time for 15 cases per year).

Other key non-monetised costs by 'main affected groups'

local authorities and courts: applications to terminate agreements.

BENEFITS (£m)	Total Transition (Constant Price) Year	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate			

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

Gypsies and Travellers: improved rights and responsibilities on local authority sites, pitches are passed on to those most in need. Local authorities and the courts: reduction in challenges to possession actions on grounds of breach of Convention rights. Local authorities and county councils: clarity on assignment and no risk of legal challenge against decisions not to allow assignment in individual cases.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

Net present value has been calculated over a period of 10 years and a discount rate of 3.5%.

Site numbers are taken from the the most up to date published caravan count (January 2010) which has shown an increase in the number of sites from previous assessments.

Impact on admin burden (AB) (£m):	Impact on policy cost savings (£m):	In scope
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New AB:	AB savings:	Net:	Policy cost savings:	Yes/No
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Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England				
From what date will the policy be implemented?	01/03/2010				
Which organisation(s) will enforce the policy?	The courts/tribunal service				
What is the annual change in enforcement cost (£m)?	0				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CORR ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: 0		Non-traded: 0		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: £32,433 average annual costs		Benefits: 0		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro 0	< 20 0	Small 0	Medium 0	Large 0
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within Impact Assessment
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	No	18
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	19
Justice system Justice Impact Test guidance	Yes	13
Rural proofing Rural Proofing Impact Test guidance	No	

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Sustainable development Sustainable Development Impact Test guidance	No	
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Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	<u>Mobile Homes Act 1983</u>
2	<i>Implementing the Mobile Homes Act on local authority Gypsy and Traveller sites - consultation</i>
3	<i>Implementing the Mobile Homes Act on local authority Gypsy and Traveller sites - a summary of responses</i>
4	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	.141	0	0	0	0	0	0	0	0	0
Annual recurring cost	0	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032
Total annual costs	.141	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

Introduction

1. On 29 August 2010 the Secretary of State for the Communities and Local Government announced the Government's intention to apply the Mobile Homes Act to local authority traveller sites so that residents of authorised local authority Gypsy and Traveller sites will have the same protection against eviction as residents living on other residential mobile home sites. This is part of the Government's plan to provide a fair deal for travellers and the settled community. Councils will be offered financial benefits for providing authorised traveller sites where they are needed. The Government will give councils stronger powers to more effectively tackle unauthorised development. As part of the government's wider policy to decentralise the planning system and strengthen the role of the elected councils, the Government intends to replace guidance on planning for traveller sites (Planning Circulars 01/06 (ODPM) and 04/07) with a short light-touch new policy.

2. The rights and responsibilities of Gypsies and Travellers on local authority sites are currently covered by the Caravan Sites Act 1968. This provides limited protection from eviction and harassment. In particular, in order to evict a resident a local authority need only give a minimum of 28 days notice to terminate the licence and obtain a court order for possession. The court does not have the opportunity to consider whether it is reasonable to grant the order, although it can suspend the possession order for up to a year at a time. The European Court of Human Rights ruled in 2004 in the case of *Connors v United Kingdom* that the lack of procedural safeguard to eviction breached article 8 of the European Convention on Human Rights (the right to respect for a person's private, family and home life).

3. Until 2005 county council sites in England were not "protected sites" (the definition of "protected site" was amended by section 209 of the Housing Act 2004 with effect from January 2005). Since January 2005 the Mobile Homes Act 1983 has applied to agreements to station a caravan on a county council Gypsy and Traveller site. Therefore, it is the Government's view that it does not have the power to apply any of the proposed amendments to the Mobile Homes Act 1983 to these existing agreements. However we will apply amendments to the Mobile Homes Act to residents moving on to county council sites who make new agreements following the commencement of section 318 of the Housing and Regeneration Act 2008.

4. The Housing and Regeneration Act 2008 includes a provision (section 318) to amend the Mobile Homes Act 1983 to include local authority Gypsy and Traveller sites, which will be brought into force by Order. The 1983 Act provides further protection to Gypsies and Travellers on private sites, and occupants on other types of residential caravan sites, such as park home sites. It places certain requirements on site owners and residents, and gives the courts (or, in future, the Residential Property Tribunal Service) jurisdiction to determine questions and entertain proceedings under it.

5. Following a number of engagement events with local authorities and Gypsies and Travellers, proposals were made for implementation in England in the consultation paper *Implementing the Mobile Homes Act 1983 on local authority Gypsy and Traveller sites*. The consultation paper, which was published in September 2008, with a deadline for responses of 19 December 2008, made proposals for:

- dealing with the concerns raised about some of the provisions in the Mobile Homes Act;
- how we should move from a position where existing residents have licences under the Caravan Sites Act 1968 to agreements under the Mobile Homes Act; and
- other transitional provisions that might have been needed in order to apply some of the provisions of the Mobile Homes Act to existing residents.

6. There were 52 responses to the consultation paper, from local authorities, Gypsy and Traveller representative organisations and the legal profession. The vast majority of respondents agreed with our proposals. Where there was a choice, the majority of respondents agreed that there should be no statutory right to sell or gift a caravan **and** assign the agreement to station that caravan on the pitch (Option C in this Impact Assessment).

7. In terms of the costs and benefits, there were four main options for implementation set out in the consultation stage impact assessment – these have changed since the consultation impact assessment. We will require in Options B, C and D that local authorities provide existing residents with a written statement of the rights and responsibilities in their pitch agreement. The changes to assignment in Option C and D will not apply to existing residents on county council sites but will apply to new residents on these sites.

8. **Option A: Do nothing.** Doing nothing would have further perpetuated current problems and inevitably led to an increase in challenges by Gypsies and Travellers to possession action taken against them by local authorities on the grounds that their Convention rights were being breached, and the costs associated with these actions. The Government would have come under increasing pressure, including from the Joint Committee on Human Rights and European Commission, to take action. This option was considered during the passage of the Housing and Regeneration Act 2008, but is not detailed in the Analysis and Evidence section of this impact assessment. Section 318 of the Housing and Regeneration Act 2008 will remove the exclusion of local authority Gypsy and Traveller sites from the Mobile Homes Act.

9. **Option B: Amend the Mobile Homes Act 1983 to include local authority Gypsy and Traveller sites. All the provisions of the 1983 Act would apply to these sites.** This may have costs and benefits for Gypsies and Travellers, local authorities, and the courts. **We will also require that all residents on local authority sites will be provided with a written statement of the rights and responsibilities in their agreement and local authorities will want to ensure that terms in new agreements do not conflict with the implied terms of the Mobile Homes Act 1983. The provisions of the Mobile Homes Act already apply to county council sites (as set out in para 3).**

10. Gypsies and Travellers on local authority sites would benefit from:

- the requirement for a local authority to apply to the court and prove grounds and reasonableness to terminate their agreement to occupy the pitch;
- the right for a member of a resident's family living with them to succeed to their agreement if they die;
- the ability to sell or gift their caravan, and assign their agreement (although see options C and D);
- the requirement for a local authority to provide certain information on request;
- the requirement for a local authority to make certain repairs to the pitch and maintain the common areas of the site;
- the requirement for a local authority to consult on improvements;
- the ability for the court to consider various matters arising under the 1983 Act.

11. Costs may arise to Gypsies and Travellers on local authority sites as a result of the requirement to pay up to 10% commission if they sell their caravan and assign their agreement (although see options C and D).

12. Costs may arise to local authorities from the requirements to:

- provide a written statement of the terms of the agreement under which a caravan is stationed on a pitch;
- apply to the court if they wish to terminate the agreement and prove grounds and reasonableness;
- consider requests from residents for approval of a person to whom they wish to sell or gift their caravan and assign their agreement (although see options C and D);

- provide certain information if requested by the resident, for example on the pitch and fees or other charges;
- repair and maintain parts of the pitch and common areas;
- consult on improvements to the site; and
- review the pitch fee annually - changes are subject to certain requirements.

In many cases these requirements should not result in additional costs arising to local authorities as they will already be following them or have procedures in place to deal with them.

Additional costs will arise for county councils who will be required to provide a written statement to existing residents on their sites.

13. Costs may also arise to both local authorities and the courts from the courts dealing with matters arising under the 1983 Act for local authority Gypsy and Traveller sites as well as the other types of site already covered by the Act.

14. Local authorities would benefit from the requirement on residents on their sites to pay up to 10% commission if they sell their caravan and assign their agreement (although see options C and D).

15. Options C and D varied in the approach to assignment applied to local authority and county council Gypsy and Traveller sites. Amendments to assignment will not be applied to existing residents living on county council sites but will apply to existing residents on local authority sites and new agreements with new residents on county council sites. The Mobile Homes Act 1983 enables a resident that either sells their caravan, or gives it to a family member, to pass on (or assign) the agreement to live in the caravan on the pitch to the person that buys it or it is given to, providing the site owner approves of that person. Where the caravan is sold, the site owner can claim a commission up to a maximum fixed by law. This maximum is currently set at 10% of the sale price by the Mobile Homes (Commissions) Order 1983 (SI 1983 No 748). Amending the 1983 Act for local authority Gypsy and Traveller sites will ensure that residents living in similar accommodation have the same rights and responsibilities. However, at the consultation events we held, stakeholders raised concerns about the impact that assignment may have on local authority and county council Gypsy and Traveller sites. We therefore sought views on two further options.

16. Option C: Amend the Mobile Homes Act 1983 to include local authority Gypsy and Traveller sites but do not apply the right of assignment. The amendment to the right to assign will not apply to existing residents on county council owned sites but will apply to new residents who make new agreements following the commencement of section 318. We will also require that all residents on local authority sites will be provided with a written statement of the rights and responsibilities in their agreement and local authorities will want to ensure that terms in new agreements do not conflict with the implied terms of the Mobile Homes Act 1983. In addition a new agreement will be necessary for new residents on county council sites. Where applicable, Gypsies and Travellers would not benefit from having a statutory right to sell or gift their caravan and assign their agreement, or have the cost of paying the commission (up to 10% of the value of the sale) on assignment. Local authorities and county councils would not benefit from receiving the commission payable by site residents on assignment (unless the resident has the right to assign by living on a county council site before section 318 comes into force).

17. Option D: Amend the Mobile Homes Act 1983 to include local authority Gypsy and Traveller sites but with additional requirements on assignment. The amendment to the right to assign will not apply to existing residents on county council owned sites but will apply to new residents who make new agreements following the commencement of section 318. We will also require that all residents on local authority sites will be provided with a written statement of the rights and responsibilities in their agreement and local authorities will want to ensure that terms in new agreements do not conflict with the implied terms of the Mobile Homes Act 1983. In addition a new agreement will be necessary for new residents on county council sites. We estimate that Gypsies and Travellers would benefit from being able to sell or gift their caravan and assign their

agreement in around half the cases per year estimated in option B as local authorities would have to assess the accommodation needs of other Gypsies and Travellers in their area in deciding whether to approve a proposed assignee. Gypsies and Travellers would only have the cost of paying half the commission. Likewise, local authorities would only benefit from receiving half the commission. Existing residents on county council sites will already have the right to assign and the requirement to assess need will not apply to them – it will apply to new residents who move on to county council sites following the commencement of section 318.

18. These potential costs and benefits are considered in further detail below.

19. **Following consultation the Government has decided to implement Option C.** Both local authorities and Gypsies and Travellers raised concerns about the potential impact of assignment given the shortage of authorised sites for Gypsies and Travellers, and the need to ensure that pitches on them are made available to those most in need. Assignment could create a market in pitches and undermine local authority allocations procedures. Although existing residents on county council sites already have the right to assign, new residents that make new agreements will not have this statutory right. While Option D would put additional requirement on assignment to take account of the needs of other Gypsies and Travellers in the area, respondents to the consultation were concerned that it would be impractical to make decisions under Option D and any decision made would risk legal challenge.

COSTS AND BENEFITS OF EACH OPTION

Option A – Do nothing

20. There are no benefits arising from Option A. However, doing nothing would have perpetuated the problem, and would inevitably have led to an increase in challenges to possession actions against Gypsies and Travellers on local authority sites. This would have costs for Gypsies and Travellers, local authorities, the courts and the Government.

Option B - Amend the Mobile Homes Act 1983 to include local authority Gypsy and Traveller sites. All its provisions will apply to these sites

ANNUAL COSTS

ONE-OFF COSTS (TRANSITION)

To local authorities

Arrangements for applying the Mobile Homes Act 1983 to existing residents of local authority sites

21. Under the Mobile Homes Act 1983 an agreement to station a caravan on a site will include certain terms implied by that Act, and any additional express terms. Site owners are required to provide a written statement including these terms and details specific to the agreement such as the parties to it, date, and particulars of the pitch. The form of the statement and implied terms is set out in regulations and authorities will need to add express terms and the details specific to the agreement.

22. Gypsies and Travellers on local authority sites will currently have licences under the Caravan Sites Act 1968 which set out the terms under which they occupy their pitch.

23. Two options for moving from a position where existing residents of local authority Gypsy and Traveller sites have licences under the Caravan Sites Act 1968 to agreements under the 1983 Act were set out in *Implementing the Mobile Homes Act 1983 on local authority Gypsy and Traveller sites*.
24. The first option would have required local authorities to make agreements with existing residents that include the implied terms of the 1983 Act, any express terms, and the details specific to the agreement, which in some cases may need to be gathered. This would have required additional work by local authorities and an estimate of its costs was provided in the impact assessment which accompanied the consultation.
25. The second option was that existing licences would be deemed to be agreements and include the implied terms in the 1983 Act.
26. Out of the 48 respondents to this question, 46 supported Option 1. However, having considered the responses and practicalities of both options, upon reflection, the Government will proceed with a modified version of the second option in the consultation.
27. On the date Section 318 of the Housing and Regeneration Act 2008 comes into force existing licences will automatically become agreements to which the Mobile Homes Act applies. The implied terms of the Mobile Homes Act will be automatically incorporated into existing licences and the terms of the licence will automatically become the express terms of the agreement. This in itself will not impose any financial impact on local authorities.
28. However, in order to ensure that existing residents are aware of their rights and responsibilities under the Mobile Homes Act, the Government will require that local authorities provide existing residents of permanent (residential) sites with a written statement of the agreement (in line with the Mobile Homes (Written Statement) (England) Regulations) within 28 days of section 318 coming into force. This will impose a burden on local authorities.
29. As already outlined in the introduction, county councils are already covered by the Mobile Homes Act. The Government will not require that county councils provide a written statement to existing residents as it is doing for local authorities under this Option.
30. It is possible that terms in licences when they automatically become express terms in agreements could conflict with the implied terms. In the event of a dispute over terms either the resident or the local authority will be able to apply to the court for resolution under section 4 of the Mobile Homes Act. However, the implied terms of the Mobile Homes Act strengthen residents' rights and the Government believes that disputes over terms are unlikely.
31. Local authorities will need to have an agreement ready for new residents who move onto sites after section 318 comes into force. Under Option 1 in the consultation (requiring that new agreements are made) we assumed that local authorities would give new residents the same agreement they were required to make with existing residents (which would not have imposed any further burden on them).
32. For this new agreement, local authorities and county councils may want to use terms they previously used in licences as express terms, however, before issuing new agreements, they will want to ensure that the express terms in the new agreement do not conflict with the implied terms in the Mobile Homes Act.
33. We provide below an estimate of the cost for local authorities of producing a written statement for existing residents on the local authority sites and for producing an agreement for new residents. The

burden on local authorities of providing a written statement for existing residents and producing a new agreement for new residents arriving on site after section 318 comes into force will not burden local authorities any more than Option 1 in the impact assessment for the consultation.

34. In calculating costs for local authorities we have assumed that :

- there will be one agreement and written statement per pitch;
- a 'local authority' site is a site that the caravan count shows is 'owned' or 'managed' (or both) by a borough or district council or a unitary authority (we have used data from the January 2010 caravan count). To ensure we have estimated the potential impact of the amendments to the Mobile Homes Act we have assumed that where the caravan count data shows that sites are owned by a county council but managed by 'local authorities' these sites are 'local authority' sites. As outlined in paragraph 3, county council sites are already covered by the Mobile Homes Act. The January 2010 Caravan Count indicates that there are currently 195 'local authority' Gypsy and Traveller sites in England;
- There are 260 working days per year (a 5 day working week);
- There is no reliable estimate of local authority employee wages and non-wage costs. We have estimated the average annual salaries of local authority employees dealing with Gypsy and Traveller site management to be as follows:
- local authority officer - £25, 000. One day's work = £96
- local authority administrative support officer - £20,000. One day's work = £77
- local authority Lawyer - £30,000. One day's work = £115
- all existing licences for the same site will contain the same terms.
- For new agreements, the local authority will want to retain terms used in licences where they do not conflict with the implied terms in the Mobile Homes Act. Many local authorities will own more than one site, and terms may be the same across all their sites;
- it could take 2 days for an local authority officer dealing with Gypsy and Traveller site management issues to prepare an agreement for new residents and to prepare the written statement for existing residents: £96 per day, 2 days, 195 sites = £37,440
- it could take 2 days for an local authority lawyer to prepare an agreement for new residents and to prepare the written statement for existing residents: £115 per day, 2 days, 195 sites = £44,850
- it could take 1 day of an local authority officer's time to gather the pitch details required for the written statement for existing residents on each site: £96 per day, 195 sites = £18,720;
- it could take 1 day of an local authority Administrative Officer's time to insert the specific details for each pitch into the written statement for existing residents on a site and distribute the written statement to residents within 28 days of section 318 coming into force. £77 per day, 195 sites = £15,015.

We therefore estimate that the one-off cost (transition) to local authorities of arrangements for applying the 1983 Act to existing residents and complying with the requirement to provide a written statement will be around £116,025

AVERAGE ANNUAL COST (EXCLUDING ONE-OFF)

To local authorities

County council sites are already covered by the Mobile Homes Act. The average annual costs (excluding one-off costs) for Option B will therefore not impose any new costs on county councils.

Agreements for new residents

35. Under the Mobile Homes Act 1983, local authorities will be required to make agreements with new residents and provide a written statement of the terms 28 days before hand. Once a new agreement for new residents is drawn up following section 318 coming into force, the express terms of agreements for different pitches on the same site are likely to be the same. Once an initial agreement is drawn up, **this requirement should not therefore impose any ongoing additional costs.**

Sale or gift of caravan and assignment of agreement

36. Under the Mobile Homes Act 1983 residents are able to sell or gift their caravan, and assign their agreement to occupy the pitch, with the approval of the site owner for the person to whom they wish to sell or gift and assign. Local authorities will need to respond to requests for approval within 28 days.

37. For park homes, to which the 1983 Act already applies, the re-assignment rate has been estimated at around 6% per year (Economics of the Park Home Industry, ODPM, 2002). However, current practice suggests that Gypsies and Travellers will be more likely to move their caravan/s to a different site, rather than sell or gift their caravan/s, assign their agreement to occupy the pitch, and buy or rent another caravan/s on a different site.

38. Local authorities will already be assessing applications for vacant pitches as they arise on sites, for example through seeking references, and should therefore have procedures in place to deal with the approval of a person to whom a current resident may wish to sell or gift their caravan and assign their agreement. Given the current practice mentioned in paragraph 37, the ability to sell or gift their caravan and assign the agreement is more likely to be another option available to those Gypsies and Travellers who may be seeking to move, rather than a stimulus encouraging more Gypsies and Travellers to move. **This requirement should not therefore impose any additional costs on local authorities.**

Provision of information

39. Under the Mobile Homes Act 1983, if requested by a resident, a local authority will need to provide details about the pitch and base, including its size and location within the site. However, local authorities will be able to charge up to £30 for these details. **This requirement should not therefore impose any additional costs on local authorities.**

40. If requested by a resident, a local authority must provide evidence in support or explanation of a new pitch fee, and charges for services or other costs or expenses payable under the agreement, free of charge. Local authorities will already be required by the 1983 Act to set out proposals for any change to pitch fees prior to the review date (see paragraph 46). Evidence such as bills, invoices or other documentation, should be readily available in relation to changes to pitch fees and charges for services. **Any costs associated with this requirement should therefore be nominal.**

41. Local authorities must also inform residents, and any qualifying residents association, of an address in England and Wales at which notices can be served on them. However, the regulations covering the form of the written statement will require an address for the local authority to be included in the statement provided to residents, and so **this requirement should not therefore impose any additional costs on local authorities above those estimated for the provision of these statements.**

Repairs and maintenance

42. Under the 1983 Act local authorities will be responsible for making certain repairs to pitches, and maintaining any services supplied by them to it, for example, utilities, and will also be required to maintain the common areas of the site. Local authorities are already responsible for repairs and maintenance on their sites, and this should be covered by pitch fees. Where repairs are more substantial, they may be included in bids for refurbishment work under the Gypsy and Traveller Site Grant provided by the Homes and Communities Agency.

Consultation

43. Under the 1983 Act local authorities will be required to consult residents about improvements to the site, and any qualifying residents association about matters relating to the operation and management of the site.

44. Local authorities should already be consulting residents of their sites about improvements and operation and management as a matter of good practice. Local authorities applying for the Gypsy and Traveller Site Grant to assist them in making improvements to their sites are required to provide evidence of consultation with residents as part of their application. However, there will not be a requirement in the Mobile Homes Act to consult residents on improvements to transit sites – the January 2010 caravan count shows that there are 6 local authority sites that consist only of transit pitches. In addition, not all local authorities will necessarily apply for grant to assist them with making improvements and since this will be a requirement we have estimated the cost of the process outlined in the 1983 Act.

45. We have assumed that:

- local authorities will not apply for grant for improvements to 50% of residential sites - 95 (195 local authority sites minus 6 transit sites = 189 residential sites);
- improvements might be made to these sites on average once every 3 years (32 improvement schemes per year);
- it could take an average of 5 days of an local authority officer's time to prepare a letter to residents explaining the proposals for improvement and consider their responses. £96 per day, for five days = £480;
- it could take half a day of an local authority administrative support officer's time to distribute the letter: £77 per day for half a day = £39

This could therefore lead to costs for local authorities of £16,608 per year (£519 x 32).

Rent reviews and pitch fee changes

46. Under the Mobile Homes Act 1983, local authorities will need to review the pitch fee annually and provide written details of proposals for any changes 28 days before the review date. The majority of local authorities are likely to review their rent periodically and will need to inform residents of any changes, **and so this requirement should not impose any additional costs on local authorities.**

47. A pitch fee can be changed if the resident agrees, or if the site owner or resident applies to the court, and the court considers it reasonable. The potential cost of this requirement for the courts and local authorities is considered in paragraphs 59-65 below.

48. In determining the amount of a new pitch fee, the 1983 Act requires particular regard to be had to sums spent on improvements to (but not expansion of) to the site, any decrease in the amenity of a site; and the effect of any enactment that has come into force since the last review.

49. The 1983 Act also contains a presumption that the pitch fee will only increase or decrease by a percentage no more than any percentage increase or decrease in the RPI since the last review date, unless this would be unreasonable having regard to factors such as any sums spent on improvements since the last review.

50. The presumption about RPI and pitch fees should not therefore impose additional costs on local authorities.

To local authorities and the courts

Termination of agreements

51. To terminate an agreement on a residential Gypsy and Traveller site under the Mobile Homes Act 1983, a local authority would need to apply to the court and satisfy it that one of the grounds set out in the Act is met, and that it is reasonable to terminate the agreement.

52. Currently, under the Caravan Site Act 1968, local authorities need only give 28 days notice to terminate the agreement, and seek a possession order from the court if the resident does not leave. So the requirement to prove grounds and reasonableness may give rise to additional costs for both local authorities and the courts.

53. However, in practice it is unlikely to be as straightforward as the 1968 Act suggests, to get a possession order, because:

- many Gypsies and Travellers are likely to challenge possession actions against them on the grounds that their Convention rights are being breached, which has to be considered by the courts, and involves additional work and costs for local authorities and the courts.
- some local authorities may already be seeking to prevent challenge in this way by avoiding taking summary possession action, as advised in our site management guidance.

54. Communities and Local Government does not collect information on local authority possession actions against Gypsies and Travellers on their sites. However, using information from a legal firm that specialises in Gypsy and Traveller cases, and deals with the majority of possession actions, we have estimated that 24 possession actions a year may go to court. There may be additional cases where Gypsies and Travellers have not engaged legal services.

55. The impact of local authorities being required to apply to the court and prove grounds and reasonableness in order to terminate an agreement may be that:

- additional possession actions arise where local authorities believe they can prove grounds and reasonableness against Gypsies and Travellers who may not currently seek legal advice and leave a site when they receive notice to terminate their licence;
- fewer possession actions arise because local authorities do not believe they can prove grounds and reasonableness against Gypsies and Travellers against whom they would currently not need to;
- fewer possession actions will end up being considered by the courts as a result of the fact that issues around Convention rights in this respect should not arise.

56. Taking all these factors into consideration we believe that overall this requirement should not therefore impose additional costs on local authorities. The Ministry of Justice has agreed that

the amendment to the 1983 Act should not have a significant impact on the work of the courts and legal aid.

57. One respondent to the consultation raised the issue of Gypsies and Travellers potentially leaving pitches permanently without giving the necessary notice to the local authority. Under the 1983 Act the local authority would need to go to court to terminate the agreement. This would not be necessary under the Caravan Sites Act 1968. This could impose additional costs on local authorities and courts.

58. We have no data to indicate how many Gypsies and Travellers may leave their pitch without giving the necessary notice. However, the shortage of sites means that many residents on local authority Gypsy and Traveller sites have lived there for many years. We will keep this issue under review. However the risk posed by Gypsies and Travellers leaving pitches permanently without giving the necessary notice can be mitigated by ensuring that residents are aware of their responsibilities.

Other matters considered by the courts or residential property tribunal under the Mobile Homes Act

59. Under the Mobile Homes Act 1983, the courts are currently able to consider a number of other matters however the Government is transferring jurisdiction for dealing with applications (other than termination) under the Mobile Homes Act to the Residential Property Tribunal Service. This transfer will come into effect before the amendments to the Mobile Homes Act for local authority Gypsy and Traveller sites come into force.

60. The matters under the Mobile Homes Act currently considered by the courts (and which Tribunals will consider in future) are:

- a) applications by residents for a written statement from owners, where this has not been provided as required;
- b) applications by owners or residents to vary or delete any express term of the agreement within 6 months of the date it is made;
- c) applications by residents to approve a person to whom a caravan is to be sold or gifted and the agreement assigned, where the owner has not responded within 28 days, or where conditions imposed or refusal to give consent is considered unreasonable (although see options C and D);
- d) applications by owners to change the pitch fee where the resident does not agree with this;
- e) determination of any question arising under the Act or agreement to which it applies.

61. Additional costs may arise to local authorities from having to deal with these matters for local authority Gypsy and Traveller sites as well as sites to which the 1983 Act already applies. These costs have been calculated for the 189 residential sites only as the Tribunal's consideration would likely take longer than the length of the agreement for a transit pitch which will be limited to a maximum of 3 months.

62. In its consultation on transferring jurisdiction to the Residential Property Tribunal Service *A New Approach to Resolving Disputes and to Proceedings relating to Park Homes under the Mobile Homes Act 1983*, Communities and Local Government has estimated that Tribunals could deal with around 150-200 cases relating to park homes every year, excepting cases relating to the termination of agreements, which are covered in paragraphs 51-58 above. There are an estimated 2,000 park home sites in England. This means that there could be hearings relating to around 8% of park home sites in court every year.

63. If we apply the estimate that 8% of park home sites will be involved in Tribunal hearings under the 1983 Act every year to local authority Gypsy and Traveller sites, then 15 additional Tribunal hearings

(8% of 189 local authority residential sites) would result from including local authority Gypsy and Traveller sites in the scope of the 1983 Act.

64. We have assumed that each case will take:

- one day at the Tribunal for an local authority officer and local authority lawyer: using the salary costs outlined in paragraph 34 above £96 + £115 = £211;
- an average of 4 days of work by both an local authority officer and a local authority lawyer beforehand: £96 for 4 days = £384; and £115 for four days = £460.

These 15 additional cases could therefore lead to additional costs of around £15,825 a year for local authorities (£211 + £384 + £460 x 15).

65. As set out in paragraph 56, the Ministry of Justice agreed that the amendment to the 1983 Act would not have had a significant impact on the work of the courts and legal aid. The cost to Government of the Tribunal service taking on jurisdiction under the Mobile Homes Act is set out in the impact assessment to the consultation *A New Approach to Resolving Disputes and to Proceedings relating to Park Homes under the Mobile Homes Act 1983*. The cost to Government was based on an estimate of 150-200 cases going to Tribunals each year and as such the additional 15 cases stemming from local authority Gypsy and Traveller sites would not impose a significant impact. In Tribunals, although Legal Help would be available for legal advice and assistance, subject to income, it would not routinely be available for legal advocacy; Legal Aid for legal advocacy is only available in tribunals in exceptional circumstances.

Commission on assignment

66. Under the Mobile Homes Act 1983 local authorities will be able to charge up to 10% commission if a Gypsy or Traveller on one of their residential sites sells their caravan and assigns the agreement to live on the pitch. As mentioned in paragraph 37 above, the re-assignment rate for park homes has been estimated at around 6% per year (around 5,000 park homes). An average of 89% of these re-assignments will be on sale, with the remaining 11% on gifting the park home to a family member, which does not attract commission. The average value of a park home on re-assignment is £35,000 (reflecting the sharp depreciation in value of mobile accommodation – the average value of a new park home is £62,000) (*Economics of the Park Homes Industry*, OPDM, 2002).

67. As set out in paragraph 37 above, current practice suggests that Gypsies and Travellers will be more likely to move their caravan/s to a different site, rather than sell or gift their caravan/s, assign their agreement to occupy the pitch and buy or rent another caravan/s on a different site. We have therefore assumed that the re-assignment rate for pitches on Gypsy and Traveller sites would be around 1% per year. We have used pitch rather than caravan numbers for the purposes of this estimate as, although there would normally be one park home per pitch, there is an average of 1.6 caravans per pitch on a Gypsy and Traveller site. There are currently 2970 pitches on residential local authority sites in England. This means that there may be around 30 re-assignments every year.

68. If we apply the same ratio of sales to gifts as for park homes (89% to 11%) 27 of these re-assignments may be on sale. If we assume the average value of a new 20 foot trailer is around £30,000, and the average value on re-sale may be around £15,000, then the highest commission chargeable per sale would be £1,500. In almost all cases Park Home site owners charge the full 10% commission (*Economics of the Park Homes Industry*, OPDM, 2002). **Gypsies and Travellers may therefore pay around £40,500 in commission payments per year (£1,500 x 27 assignments).**

69. The cost of the additional court cases in paragraph 64 (£15,825), consultation in paragraph 45 (£16,608), and commission payable on assignment (£40,500) will bring **the average annual cost of Option B to £72,933.**

ANNUAL BENEFITS

AVERAGE ANNUAL BENEFIT (EXCLUDING ONE-OFF)

70. Gypsies and Travellers will benefit from the additional rights and responsibilities outlined in paragraph 10.

To local authorities

Commission on assignment

71. Under the Mobile Homes Act 1983 local authorities will be able to charge up to 10% commission on the sale of a caravan and assignment of an agreement to occupy the pitch it is stationed on. **The £40,500 cost to Gypsies and Travellers of this calculated in paragraph 68 above will be a transfer benefit to local authorities.**

Option C: Amend the Mobile Homes Act 1983 to include local authority Gypsy and Traveller sites but not apply the right to assignment to existing residents on local authority sites and to new residents on county council sites. As in Option B, local authorities will be required to issue a written statement to existing residents and will need to produce a new agreement for new residents; **in addition, county councils will need to produce a new agreement (which does not include the right to assign and with express terms that are consistent with the amended implied terms) for residents who make agreements after section 318 comes into force.**

72. **The annual one-off (transition) costs of Option C for local authorities are the same for Option B (£116,025).** In calculating the one-off (transition) costs for county councils we have used the following assumptions and calculations. For county councils:

- there will be one agreement per pitch;
- the January 2010 Caravan Count shows that there are currently 117 county council owned and managed Gypsy and Traveller sites in England;
- There are 260 working days per year;
- average annual salaries of county council employees dealing with Gypsy and Traveller site management are as follows:
- county council officer - £25,000. One day's work = £96
- county council Lawyer - £30,000. One day's work = £115
- New agreements for the same site will contain the same terms;
- Many county councils will own more than one site;
- It could take 1 day for a county council officer dealing with Gypsy and Traveller site management issues to prepare an agreement for new residents: £96 per day, 1 day, 117 sites = £11,232;
- It could take 1 day for a county council lawyer to prepare an agreement for new residents: £115 per day, 1 day, 117 sites = £13,455.

We therefore estimate that the one-off cost (transition) to county councils of producing a new agreement for new residents under Option C will be around £24,687. The total annual one-off (transition) costs for local authorities (£116,025) and county councils (£24,687) will be around £140,712.

73. **The average annual costs for consultation and other matters considered by the courts for Option C are the same as option B (£15,825 and £16,608) respectively). This will only be a new impact on residential local authority Gypsy and Traveller sites.**

74. A significant proportion of stakeholders raised a number of concerns about the impact of assignment, which were set out in *Implementing the Mobile Homes Act 1983 on local authority Gypsy and Traveller sites*. The Government proposed two options for dealing with this in this consultation paper. The first option was to specify that the implied terms dealing with assignment do not apply to local authority Gypsy and Traveller sites. **If there is no statutory right to assignment on these sites then there will not be any cost to Gypsies and Travellers in paying commission on assignment, and local authorities will not receive the benefit of these commission payments.**

75. **The average annual cost for option C will therefore be £32,433 and there will not be an annual average benefit.**

Option D – Amend the Mobile Homes Act 1983 to include local authority Gypsy and Traveller sites but impose additional requirements on assignment to existing residents on local authority sites and in new agreements on county council sites. As in Option B, local authorities will be required to issue a written statement to existing residents and will need to produce a new agreement for new residents; county councils will need to produce a new agreement (which includes additional requirements on assignment) for residents who make agreements after section 318 comes into force.

76. **The annual one-off (transition) costs for option D are the same as for option C (£116,025).**

77. **The average annual costs to local authorities for consultation and other matters considered by the courts for option D are the same as option B (£15,825 and £16,608).**

78. The second option for dealing with the concerns expressed by stakeholders about assignment was to amend the implied terms on assignment to require that in considering whether to approve a person to whom a resident on a Gypsy and Traveller site proposes to assign an agreement, the local authority must consider the needs of other Gypsies and Travellers in their area, as well the needs of the proposed assignee. This is likely to reduce the number of assignments made on local authority Gypsy and Traveller sites.

79. If we assume that this reduces the number of assignments on local authority sites estimated in option B (30) by half, there may be around 15 assignments every year. Applying the same ratio of sales to gifts as in option B, 13 assignments may be on sale. Using the same average values for trailers as in option B (£15,000), **Gypsies and Travellers may pay around £19,500 in commission payments per year at 10% of the value of the trailer (£1,500 x 13 assignments). This £19,500 cost to Gypsies and Travellers will be a benefit to local authorities.**

80. The requirement to consider the needs of Gypsies and Travellers in the area when approving assignment would not apply to existing residents on county council sites. It would, however, apply to residents on county councils sites that move on to sites with new agreements after the commencement of section 318. Those who buy the caravan on the pitch and are assigned the agreement will retain the full right of assignment. We have assumed that there will be a 1% assignment rate on Gypsy and Traveller sites. There are 1638 pitches on county council sites which means that there would be 16 assignments each year to new residents who would retain the full right to assign. Of the remaining 1622 pitches (1638 – 16), if we generously assume that 25% pitch agreements are terminated each year and then re-assigned this will leave 409 pitches that could be assigned but with requirements on approval. If we assume again that 1% of these will be assigned (4 assignments) and that half are allowed due to the requirement on approval, there could be 2 assignments each year on county council sites under Option

D. Using the ratio of sales to gifts (89% to 11%) would still leave 2 assignments on sale. Using the average values of trailers (£15,000), **Gypsies and Travellers may pay around £3,000 in commission payments per year at 10% of the value of the trailer (£1,500 x 2 assignments. This £3,000 cost to Gypsies and Travellers on county council sites will be a benefit to county councils.**

81. **The average annual cost of option D for local authorities and Gypsies and Travellers on local authority and county council sites will therefore be £54,933 and the average annual benefit will be £22,500.**

Specific Impact Tests

82. STATUTORY EQUALITIES DUTIES

An initial screening for an equality impact assessment was completed and signed off in September 2009. We did not proceed to a full equality impact assessment.

This policy is being implemented to respond to the ruling of the European Court of Human Rights. The policy will give residents on local authority sites rights and responsibilities already available to residents on other types of mobile home site. The amendments to the Mobile Homes Act are in response to concerns raised by stakeholders at a series of stakeholder engagement events and during a public consultation. The rights and responsibilities of residents on other mobile home sites who have agreements under the Mobile Homes Act will remain unchanged.

83. COMPETITION

The proposal to amend the Mobile Homes Act 1983 to remove the specific exclusion for local authority Gypsy and Traveller sites will ensure that all Gypsies and Travellers have the same protection against eviction and other rights and responsibilities whether they live on a private or socially rented site. Turnover on sites is often low and currently there is not a “market” for site accommodation in the way that there is for conventional housing. The proposal does not raise any competition concerns.

84. SMALL FIRMS

We have considered the guidance and have assessed that there is no impact.

85. GREENHOUSE GAS ASSESSMENT

We have considered the guidance and have assessed that there is no impact.

86. WIDER ENVIRONMENTAL ISSUES

We have considered the guidance and have assessed that there is no impact.

87. HEALTH AND WELL-BEING

Gypsies and Travellers have poor health outcomes compared to the settled population. For example:

- the average life expectancy of Gypsies and Travellers is 12 years less for women and 10 years less than men for the settled population;
- 41.9% of Gypsies and Travellers have reported a limiting long term illness – compared to 18.2% of the settled population;
- 17.6% of Gypsy and Traveller mothers have experienced the death of a child – compared to 0.9% in the settled population.

Currently, the ability for local authorities to evict Gypsies and Travellers from their sites quickly, by terminating the licence agreement with 28 days notice and seeking a possession order if they do not

leave, may have a detrimental impact on Gypsies and Traveller's health, by making it difficult for them to maintain contact with health services, and increasing stress and related behaviours.

Improving security of tenure by requiring the local authority to satisfy the court that one of a number of grounds for possession has been met, and that it is reasonable to terminate the agreement, may help to alleviate these difficulties and contribute to an improvement in health outcomes for Gypsies and Travellers.

88. HUMAN RIGHTS

This proposal responds to the European Court of Human Rights judgment in the case of *Connors v United Kingdom* in 2004 that the lack of procedural safeguards to eviction on local authority Gypsy and Traveller sites breached article 8 of the Convention (right to respect for private, family and home life).

89. JUSTICE SYSTEM

The Ministry of Justice has agreed that there should not be a significant impact on Legal Aid.

90. RURAL PROOFING

The proposal will improve the rights and responsibilities of Gypsies and Travellers living on local authority sites whether they are in rural or urban areas. The proposal will not have a different impact on rural areas because of particular rural circumstances or needs.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];</p> <p>Policy review</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>Check that the regulation is operating as expected.</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>Scan of local authorities by questionnaire and contact with Ministry of Justice.</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>Number of possession actions set out in the impact assessment. Nil cost of consultation, nil cost of dealing with matters that arise from the Mobile Homes Act, nil cost of providing a written statement.</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>Gypsies and Travellers: improved rights and responsibilities on local authority sites and clarity about those rights and responsibilities, pitches are passed on to those most in need. local authorities and the courts: reduction in challenges to possession actions on grounds of breach of Convention rights. local authorities and county councils: clarity on assignment and no risk of legal challenge against decisions not to allow assignment in individual cases.</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p> <p>None</p>
<p>Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]</p> <p>n/a</p>

Add annexes here.